IN THE HIGH COURT OF UTTARANCHAL, AT NAINITAL

Criminal Revision No. 919 of 2001

Sabbal Singh Chauhan	……	Revisionist
	Versus	
State of Uttaranchal and others	……	Respondent

Hon. Irshad Hussain, J.

Heard Sri D.C.S.Rawat brief holder for Sri Lokendra Dobhal learned counsel for the revisionist and learned A.G.A.

This is a revision under Section 397/401 of the Code of Criminal Procedure against the judgment and order dated 8.5.2001 passed by the CJM, Uttarkashi acquitting the respondents no. 2 to 4 of the charge under Section 379 read as Section 120-B IPC.

The revision was preferred beyond time. The cause shown being sufficient delay is condoned. The argument having been heard, the revision is disposed of finally.

From the perusal of the record it is evidence that the revisionist/ complainant filed a report with the allegations that the respondents have committed theft of truck U.G.P. 4572 at 5:00 or 6:00 PM on 23.3.1996, which was in his possession and ostensible ownership and the same had later on been wrongly handed over to the financer of the vehicle. It is evident from the evidence that the truck was taken under the hire purchase agreement initially by Basant Singh who without discharging his liability towards the financer sold the vehicle to the revisionist. The notice for payment of the dues was sent to the revisionist but the dues were not cleared and he continued to ply the said truck without being the owner of the same. Unless and until, the entire price of the vehicle was paid the vehicle was under the hire purchase agreement and the ownership had not been transferred either in favour of the Basant Singh or the revisionist. In other words, the revisionist was not the owner of the said truck but, in fact, he was the trustee of the same on behalf of the financer and since hd had not paid its price the truck was handed over to the financer. Considering these broad features of the case, the ingredients of theft are legally not made

out from the allegations and therefore the learned CJM was fully justified in holding that the charges as levelled above were not established beyond doubt against the respondent no. 2 to 4. There being no illegality in the approach of the learned CJM in taking the above view, the revisionist merit dismissal.

The revision is hereby dismissed.

(Irshad Hussain, J.)

Dated 14.11.2003

Rawat